

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4898-01
Bill No.: HB 2386
Subject: Crimes and Punishment; Children and Minors
Type: Original
Date: April 20, 2010

Bill Summary: The proposal revises various laws concerning sexual offenses and their investigation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Conservation, Department of Natural Resources, Department of Public Safety – Missouri State Highway Patrol, and the Jefferson City Police Department** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Corrections (DOC)** assume the penalty provision component of this bill, resulting in potential fiscal impact for DOC, is for up to an existing class B felony.

DOC cannot currently predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY09 average of \$16.04 per offender per day, or an annual cost of \$5,855 per inmate) or through supervision provided by the Board of Probation and Parole (FY09 average of \$3.71 per offender per day, or an annual cost of \$1,354 per offender).

The need for capital improvements is not anticipated at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases. SPD assumes a minimal unknown impact.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the Office of Prosecution Services, Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff's Department, Kansas City Police Department, Platte County Sheriff's Department, Springfield Police Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation changes the laws regarding sexual offenses involving a child:

1. Requires the forfeiture of any computers, computer equipment, computer hardware and software, cellular telephones, or other devices capable of accessing the Internet used by the owner or with the owner's consent as a means of committing certain felonies or those used as an instrument to distribute or store anything in which the possession of which is a state offense. A law enforcement agency upon court order is allowed to retain possession and convert to law enforcement use these items used in the acquisition, possession, or distribution of child pornography or obscene material (Section 542.301, RSMo);
2. Allows a court to order a defendant upon a plea of guilty or finding of guilt for a felony sexual offense in which these items were seized to reimburse the state or local law enforcement agency for the costs incurred in its examination of the items seized in addition to any other penalties provided by law (Section 566.015);
3. Adds to the crime of sexual misconduct involving a child the act of knowingly coercing or inducing a female child younger than 15 years of age to expose her breasts for the purpose of arousing or gratifying the sexual desire of any person. Sexual misconduct involving a child or attempted sexual misconduct involving a child will be a class D felony unless the actor was 21 years of age or older and was located outside the state of Missouri at the time the offense was committed, in which case it will be a class C felony (Section 566.083);
4. Increases, from 15 years to 17 years, the age of the child as it relates to the crime of enticement of a child for the purpose of engaging in sexual conduct by any person at least 21 years of age. Enticement of a child or an attempt to commit enticement of a child will be a felony for which the term of imprisonment is between five years and 30 years when the victim is younger than 15 years of age and will be a class D felony when the victim is at least 15 years of age but younger than 17 years of age. Any person convicted of this crime when the victim is younger than 15 years of age will not be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for at least five years (Section 566.151); and

FISCAL DESCRIPTION (continued)

5. Changes the crime of age misrepresentation to be when a person knowingly misrepresents his or her age to a person younger than 17 years of age or to a police officer masquerading as a person younger than 17 years of age in order to commit or attempt to commit a felony sexual offense under Chapter 566 or an offense against the family under Chapter 568 (Section 566.153).

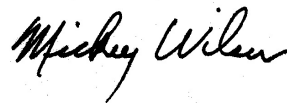
This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of State Courts Administrator
Department of Corrections
Department of Public Safety
 – Missouri State Highway Patrol
Department of Conservation
Office of the State Public Defender
Jefferson City Police Department

NOT RESPONDING

Office of Prosecution Services, Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Columbia Police Department, Independence Police Department, Jackson County Sheriff's Department, Kansas City Police Department, Platte County Sheriff's Department, Springfield Police Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Police Department, and St. Louis Metropolitan Police Department



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